

### **REMARKS/ARGUMENTS**

Applicant notes with thanks and appreciation the Examiner's indication of allowable subject matter in claim 9. Regarding the rejections of claims 1-3, 5, 7, 10-25, and 28-30, Applicant respectfully requests reconsideration and continued examination of this application in view of the above amendments and the following remarks.

#### **1. Status of the Claims**

Claims 1-3, 5, 7, and 9-31 are pending in this application.

Claims 1, 17, 18 and 20 have been amended to clarify the structure and function of the pouring device and to recite that the strand is a longitudinally elongated strand.

Claims 28-30 have been amended to depend from claim 17 as originally intended.

New claim 31 has been added to clarify another aspect of the structure and function of the pouring device.

Support for these amendments is found, for example, in Figures 1-5 and paragraph 27 of the original specification.

No new matter has been added.

#### **2. Claim Rejections Under 35 U.S.C. § 103(a)**

##### **a) 103(a) Rejections over Jiang in view of Pham**

Claims 1-3, 5, 7, 10-25 and 28-30 have been rejected under 35 U.S.C. § 103(a) as obvious over U.S. Pat. No. 4,637,530 to Jiang ("Jiang") in view of U.S. Pat. No. 5,228,603 to Pham et al. ("Pham"). Applicant respectfully traverses this rejection.

All of the subject claims were rejected on the same basis in the prior Office Action. At the outset, Applicant respectfully submits that several of the amendments and arguments that Applicant previously submitted were not adequately addressed in the present Office Action. For example, the Examiner

stated that Applicant's arguments were not persuasive with respect to the air passageway being substantially encircled by the pouring apertures and the strand being sufficiently rigid to prevent the cap from hanging in the pouring path, because these "features were not recited in the rejected claims." Applicant respectfully notes that the Examiner apparently overlooked claims 22 and 28, which recite these very features.

Additionally, the Examiner's reasoning that Figure 5 of Pham discloses a cap that seals both a pour opening and an air passageway to the atmosphere, even if correct, does not address the recitation in claim 1 of a device in which both an air passageway and the pouring apertures of a filter are adapted to be sealed by a cap, while the device shown in Figure 5 of Pham wholly lacks a filter. In fact, Pham in its entirety wholly fails to disclose the combination of a pouring filter and an air passageway in a pouring device, let alone one in which both are adapted to be sealed to the atmosphere by the engagement of a single cap with an upper portion of a cylindrical body.

Nor does either Jiang or Pham teach a pouring device with an air passageway including a portion that is integrally formed with and at least coextensive with a filter in a longitudinal direction, a feature that is recited in claim 1 and noted in the arguments submitted with Amendment H, but which was not addressed in the present Office Action. To the contrary, Pham only discloses a semi-circular screen 76 extending across only a part of a cross section of a cylindrical body, see Fig. 4B of Pham. Moreover, Pham does not even disclose an air passageway and a filter in combination in the same pouring device; rather, the device of Pham Figs. 3A-3B includes only an air passageway but no filter, while the device of Pham Figs. 4A-4B includes a mesh screen but no air passageway. The device disclosed in Jiang, on the other hand, altogether lacks a filter; see Figs. 4B-4C of Jiang. Neither Pham nor Jiang discloses an air passageway substantially encircled by the apertures of a pour opening; to the contrary, the pour openings of both Pham and Jiang are disposed entirely to one side of the air passageway. See Jiang Fig. 3; Pham Fig. 3A.

In addition, neither Pham nor Jiang discloses a pouring device comprising a cylindrical body extending above and surrounding an air passageway and a

pour opening such that the air passageway and pour opening may be sealed to the atmosphere by sealing engagement of a cylindrical longitudinal extent of a cap inserted in sealing engagement with the interior of an end of the cylindrical body, as clarified in amended claims 1 and 18. Applicant notes that an amendment to clarify this limitation was inadvertently omitted from Amendment H, and respectfully requests that the Examiner now consider this argument in view of the present clarification of claims 1 and 18. Such sealing of the device of Jiang by a cylindrical longitudinal extent of a cap would be impossible, as plate 5a, which defines a part of two adjacent pouring spaces at its two sides, extends above the cylindrical portion of the device and would thus obstruct and prevent the insertion of a cylindrical cap into the device so as to seal the pouring spaces. See, e.g., Jiang Fig. 2. The device of Pham also could not be sealed by the insertion of a cylindrical longitudinal extent; instead, the cap of Pham requires a complex, irregular profile, apparently to avoid impinging various obstructions in the interior of the top end of the pouring device. See, e.g., Pham Figs. 3A-4B.

Moreover, Pham wholly fails to disclose or suggest a pouring device with a cap attached by a flexible longitudinally elongated strand (device claim 17) and a flexible longitudinally elongated, cylindrical strand (see method claim 20), but rather only by a hinge, which wholly lacks a longitudinally elongated cylindrical shape, but is rather thin, longitudinally very short and flat. See, e.g., Pham Figs. 1 - 4B. Claim 28, which depends from claim 17, further clarifies this distinction, reciting that the strand is attached at one end to a cylindrical body and at another end to a cap such that the two ends are spaced apart from each other at a distance of about the height of the upper portion when the cap is inserted in the cylindrical body, and when liquid is poured from a bottle in which the device is inserted, the strand is of sufficient thickness and rigidity to prevent the strand and cap from hanging in the path where liquid is being poured from the bottle. Claim 31 still further clarifies that the height of the upper portion, and thus the spacing of the two ends of the strand when the cap is inserted, is about 0.75 inch. This is in sharp contrast to the ends of a hinge as in Pham, which lie directly flat against each other when the hinge is closed, the "spacing" between them being essentially zero. This construction of the present invention provides significant

advantages, permitting a strand according to the invention to be of sufficient thickness to permit repeated openings and closings of the device without breakage, and preferably to be circular in cross section, unlike the hinges of Pham which must be thin and flat, and must endure high, locally concentrated stresses associated with sharp bending. In contrast, the bending stresses in the strand of the invention are distributed along the length of the strand. This distribution of stresses permits the strand to be of sufficient rigidity to prevent the cap and strand from hanging in the pouring path during pouring, without subjecting the strand to unduly high stress concentrations when the cap is closed.

Finally, neither Jiang nor Pham discloses or suggests a spout having an upper rim that lies at least substantially in a plane, further clarified as a horizontal plane by the current amendment to claim 30, such that the spout is adapted to be closed to the atmosphere by a generally planar tab included in a cap. Rather, the device of Pham wholly lacks a spout, while the pouring spout 2 of Jiang has a rim with a curved profile, which, moreover, is overlapped by a tongue member 6 that would tend to obstruct a tab of any shape from closing spout 2 to the atmosphere. Thus, Jiang and Pham fail to disclose or suggest a significant sanitary advantage of the device of the invention. The present Office Action did not address this argument, which was earlier presented in Amendment H.

For at least the foregoing reasons, none of the pending claims is anticipated or rendered obvious by Jiang and/or Pham, whether considered alone or in combination.

### **CONCLUSION**

In view of the foregoing, no single reference or combination of the cited references teaches, suggests or otherwise renders obvious the subject matter of claims 1-3, 5, 7, 10-25, and 28-31. Applicant respectfully submits that all of the rejections have thus been overcome and claims 1-3, 5, 7, and 9-31, as amended,

are in condition for allowance. Accordingly, an early indication of allowance is solicited.

Respectfully submitted,

By: 

James D. Ryndak

Reg. No. 28,754

Attorney for Applicant

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RYNDAK & SURI LLP  
200 W. Madison St. – Suite 2100  
Chicago, IL 60606  
312-214-7770 (telephone)